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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF WASHINGTON**  
9 **AT SPOKANE**

10 STATE OF WASHINGTON,  
11  
12 Plaintiff,

13 v.

14 BETSY DeVOS, in her official  
15 capacity as Secretary of the United  
16 States Department of Education, and  
the UNITED STATES  
DEPARTMENT OF EDUCATION, a  
federal agency,  
Defendants.

NO. 2:20-cv-00182-TOR

JOINT STATUS REPORT

17 Plaintiff State of Washington and Defendants Betsy DeVos and United  
18 States Department of Education, by and through their undersigned counsel of  
19 record, submit the following Joint Status Report in compliance with this Court's  
20 Notice Setting Telephonic Conference (ECF No. 65).

1           **1. Rule 26 Conference of Attorneys:**

2           Counsel for Plaintiff and Defendants conferred telephonically on  
3           September 8, 2020, pursuant to Federal Rule of Civil Procedure 26(f) and the  
4           Court's August 20, 2020, notice, and now together submit this Rule 26(f) report  
5           and proposed discovery and scheduling plan.

6           **2. Jurisdiction and Venue:**

7           The parties do not anticipate any challenges to jurisdiction or venue in this  
8           case, though Defendants state that they continue to reserve their rights to raise  
9           such challenges at the time of their responses to Plaintiff's Complaints.

10          **3. Service of Process:**

11          All Defendants in the State of Washington's action have been served with  
12          process. The parties agree that service of process is complete.

13          **4. Suggested Deadline for Adding Additional Parties and**  
14          **Amending the Pleadings:**

15          Plaintiff and Defendants propose a deadline of October 1, 2020, for adding  
16          additional parties and amending the pleadings. Plaintiff reserves the right to move  
17          to amend the Complaint should Defendants engage in additional rulemaking.

18          Defendants propose that their deadline for filing an Answer be deferred  
19          until resolution of the summary judgment motions. Plaintiff takes no position on  
20          this issue.

**5. Proposed Discovery Plan:**

The parties agree that the central evidence in this case is the administrative record related to the Final Rule. On August 9, 2020, Defendants produced the Administrative Record in this case. Plaintiff has expressed concerns to Defendants regarding the sufficiency of the Administrative Record, and the parties are discussing this issue. Plaintiff reserves the right to challenge the sufficiency of the record. Plaintiff expects to be able to advise the Court on whether the completeness of the agency record will be an issue by November 2, 2020. Should Plaintiff choose to challenge the completeness of the record, Plaintiff will confer with Defendants and propose a schedule to the Court to brief that issue by November 6, 2020.

At this time, Plaintiff does not anticipate the need to conduct discovery, but it reserves the right to request discovery upon reviewing the complete Administrative Record.

**6. Schedule for Filing Cross-Motions for Summary Judgment:**

The parties propose the following schedule for filing Cross-Motions for Summary Judgment:

November 20, 2020:	Plaintiff's Motion for Summary Judgment, not to exceed 24 pages
December 21, 2020:	Defendants' Combined Cross-Motion for Summary Judgment and Opposition to Plaintiff's Motion for Summary Judgment, not to exceed 30 pages

1 January 29, 2021: Plaintiff's Combined Reply in Support of Summary  
2 Judgment and Opposition to Defendants'  
3 Cross-Motion for Summary Judgment, not to exceed  
4 20 pages

5 February 19, 2021: Defendants' Reply in Support of Cross-Motion for  
6 Summary Judgment, not to exceed 14 pages

7 **7. Settlement and the Point at Which the Parties Can Conduct**  
8 **Meaningful Dispute Resolution:**

9 It is unlikely that the parties will be able to reach a settlement in this case.

10 **8. Any Other Matters That May Be Conducive to the Just, Speedy,**  
11 **and Inexpensive Determination of the Action:**

12 The parties are unaware of other matters that would contribute to the just,  
13 speedy, and inexpensive determination of this action.

14 RESPECTFULLY SUBMITTED this 9th day of September 2020.

15 ROBERT W. FERGUSON  
16 Attorney General of Washington

17 */s/ R. July Simpson*

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14 *Attorneys for Defendants Betsy DeVos and*  
15 *United States Department of Education*  
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**DECLARATION OF SERVICE**

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 9th day of September 2020, at Tacoma, Washington.

/s/ R. July Simpson  
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Assistant Attorney General